

### ***Remarks***

Reconsideration of remaining claims 1, 3-6 and 14 is respectfully requested.

In the Office action dated June 1, 2006, the Examiner issued a Final Rejection of all pending claims under 35 USC § 103(a). The Examiner's specific rejections will be addressed below in the order appearing in the Office action.

#### ***35 USC § 103(a) Rejection - Claims 1-4, 6-8, 10 and 12-14***

The Examiner first rejected the above-cited claims under 35 USC 103(a) as being unpatentable over US Patent 6,760,505 (Street et al.). In response, applicants cannot agree with the Examiner's characterization of Street et al. as rendering obvious the subject matter of the present invention. Applicants have also amended independent claim 1 to include the limitations of claim 2, defining with particularity the use of a "beam splitter" and a "monitoring photodiode" to control the MEMS mirror and achieve alignment between the active optical source and passive receiving device.

It is asserted that there is no discussion or suggestion in Street et al. regarding the use of a monitoring photodiode and beamsplitting arrangement as required by amended claim 1, or with independent claim 14. Indeed, Street et al. discusses at column 3, beginning at line 46, its particular "sensor" arrangement that "avoids" the need for a beam splitter. Applicants' independent claims 1 and 14 require a "beam splitter". Further, Street et al. defines the use of a "transparent/transmissive sensor" 140 - as further defined beginning at column 4, line 63 - is inserted directly in the light beam being transmitted. In contrast, the arrangement of the present invention forms "first" and "second" beams, with the "first" beam directed to the optical receiving device and the "second" beam directed to the photodiode. This type of arrangement is not disclosed or suggested by Street et al.

Without this teaching, applicants assert that Street et al. cannot be found to render obvious the subject matter of the present invention. Applicants thus respectfully request

the Examiner to reconsider this rejection and find remaining claims 1, 3, 4, 6 and 14 to be in condition for allowance.

***35 USC § 103(a) Rejection – Claims 5, 9 and 11***

The Examiner next rejected claims 5, 9 and 11 under 35 USC 103(a) as being unpatentable over Street et al., as above, with the taking of Office Notice regarding the use of a specific type of optical device for a “transmitter” or “receiver”. Regardless of the Examiner’s assertions regarding “office notice”, applicants assert for all of the reasons given above that Holmes cannot be found to render obvious the teachings of the present invention. Applicants thus request the Examiner to also reconsider this rejection and find remaining claim 5 to be in condition for allowance.

In summary, applicants have amended independent claim 1, and cancelled various other claims in order to move the prosecution of this application forward. Applicants believe that the case in its present form is now in condition for allowance and respectfully request an early and favorable response from the Examiner in that regard. If for some reason or other the Examiner does not agree that the case is ready to issue and that an interview or telephone conversation would further the prosecution, the Examiner is invited to contact applicants’ attorney at the telephone number listed below.

Respectfully submitted,

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